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JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100, TAIWAN R.O.C.

AIR MAIL

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JAN 18 2006

In re Application of	:	OFFICE OF PETITIONS
Chan-Li Liang	:	
Application No. 10/063,277	:	DECISION ON PETITION
Filed: April 8, 2002	:	
Attorney Docket No. 08740-US-PA	:	

This is decision on the petition filed on June 7, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On April 4, 2003, the Office mailed a Notice to File Corrected Application Papers (Notice), which set a two-month extendable period for response. In the absence of a timely filed reply, the application became abandoned on June 5, 2003. On June 7, 2005, petitioner filed the present petition.

In the present petition, it appears that petitioner is asserting nonreceipt of the Notice of April 4, 2003, due to USPTO error. Specifically, petitioner avers that petitioner made a diligent effort to change the customer number associated the correspondence address for the application; however, the USPTO failed to timely change the customer number and change the address of record due to an oversight by the Office. Therefore, petitioner requests that the Office withdraw the holding of abandonment.

The record reveals that petitioner filed the present application on April 8, 2002, which contained an Application Data Sheet, indicating the customer number correspondence address as 8740. Additionally, petitioner filed a Combined Declaration and Power of Attorney on April 8, 2002, listing a typed correspondence address as Jianq Chyun, Intellectual Property Office, 7 F-1, No. 100, Roosevelt Rd, Sec.2, Taipei 100, Taiwan, R.O.C.

The Office notes:

37 CFR 1.33(a) provides that in a patent application the applicant must specify a correspondence address to which the Office will send notices, letters and other

communications relating to the application. The correspondence address must appear either in an application data sheet (37 CFR 1.76) or in a clearly identifiable manner elsewhere in any papers submitted with an application filing. Where more than one correspondence address is specified, the Office will determine which one to establish as the correspondence address. This is intended to cover, for example, the situation where an application is submitted with multiple addresses, such as one correspondence address being given in the application transmittal letter, and a different one in an accompanying 37 CFR 1.63 oath or declaration, or other similar situations. The determination of which of the correspondence addresses to use will be made on a case-by-case basis, considering such factors as the earliest correspondence address submitted, and the first listed correspondence address if conflicting addresses appear in the same declaration. If more than one correspondence address is specified in a single document, the Office will use the address associated with a Customer Number over a typed correspondence address.

MPEP 403.

In compliance with 37 CFR 1.33, the Office entered the correspondence address associated with Customer No. 8740. On April 29, 2002, the Office mailed a Notice to File Corrected Application Papers to Customer No. 8740. On April 1, 2003, petitioner submitted a request to correct the Customer Number Correspondence Address for this application to Customer No. 31516.¹ The second page of the request also listed the typed address of Jianq Chyun, Intellectual Property Office, 7 F-1, No. 100, Roosevelt Rd, Sec.2, Taipei 100, Taiwan, R.O.C. Thereafter, in compliance with petitioner's request and 37 CFR 1.33, the Office mailed a Notice to File Corrected Application Papers to Customer No. 31516 on April 4, 2003. On April 7, 2003, petitioner filed a Change of Correspondence Address, requesting that the Office change the correspondence address for the application to Customer No. 31561. On January 6, 2004, petitioner submitted a request for Change of Customer Number from 31516 to 31561.

In the present case, petitioner failed to submit a timely change of correspondence address associated with Customer No. 31561. Rather, the record indicates that petitioner filed the Change of Correspondence Address to Customer No. 31561 on April 7, 2003, after the Office mailed the Notice to File Corrected Application Papers, which started the two-month time period to reply.² Accordingly, the Office mailed the Notice to the correct correspondence address of record as it existed on April 4, 2003. For these reasons, the petition to withdraw the holding of abandonment is **dismissed**.

A copy of the Notice of April 4, 2003, accompanies this decision for petitioner's convenience.

If petitioner desires, petitioner may submit a request for reconsideration of this decision within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are permitted under 37 CFR

¹ Petitioner explains that petitioner listed the incorrect Customer No. 31516, instead of Customer No. 31561.

² It was fortuitous for petitioner that the Office remailed the Notice to File Corrected Application Papers on April 4, 2003, after petitioner filed a request to change the correspondence address to Customer No. 31516. However, the Office notes that it is not obligated to remail an Office communication and restart the time period for filing a reply due to a petitioner's untimely change of the correspondence address.

1.136(a). The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

In the alternative, petitioner may wish to seek relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay, instead of submitting a request for reconsideration of the decision. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or Notice, unless previously filed; (2) the petition fee (\$750.00 for a small entity), and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
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Office of Petitions

Enclosure: Notice to File Corrected Application Papers dated 04/04/2003 (1 page)